

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

FRIDAY, THE 23RD FEBRUARY 2007 / 4TH PHALGUNA 1928

WP(C).No. 22694 of 2006(B)

PETITIONER:

**CHERUPUSHPAM HOSPITAL TRUST,
PALAI, REP. BY ITS MANAGING TRUSTEE,
SHRI.K.J.JOSEPH.**

BY ADV. SRI.PREMJIT NAGENDRAN

RESPONDENTS:

**1. THE KERALA STATE ELECTRICITY BOARD,
VYDYUTHI BHAVANAM,
PATTOM PALACE.P.O.,
THIRUVANANTHAPURAM-695 004,
REP. BY ITS CHAIRMAN.**

**2. THE SUB ENGINEER IN CHARGE,
KERALA STATE ELECTRICITY BOARD,
ELECTRICAL SECTION,
PALAI.**

BY ADV. SRI.JOSE J.MATHEIKEL, SC, KSEB

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 23/02/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS:

- EXT.P1: COPY OF THE LATEST BILL/CONSUMER NO.4874 DTD. 26/07/2006
ISSUED BY THE KERALA STATE ELECTRICITY BOARD.**
- EXT.P2: COPY OF THE LATEST BILL/CONSUMER NO.3838 DTD.26/07/2006
ISSUED BY THE KERALA STATE ELECTRICITY BOARD.**
- EXT.P3: COPY OF THE LATEST BILL/CONSUMER4 NO.3829 DTD.26/07/2006
ISSUED BY THE KERALA STATE ELECTRICITY BOARD.**
- EXT.P4: COPY OF THE LETTER NO.BB/G1/06-07/39/07.08.2006 ISSUED BY
THE 2ND RESPONDENT.**
- EXT.P5: COPY OF THE REVISED BILL NO.34845 DTD. 07/08/06 ISSUED
BY THE KERALA STATE ELECTRICITY BOARD.**

/TRUE COPY/

Kss

K.BALAKRISHNAN NAIR,J.

WP(C)NO.22694 OF 2006-B

Judgment

The petitioner is a trust, which is running a hospital at Palai. It was having two electricity connections to the very same premises for the very same purpose. According to the petitioner, the connections were granted about 35 years back. The electricity charges were being paid promptly. While so, the petitioner was served with Ext.P4 communication stating that it is not permissible to have two service connections for the very same purpose in the very same premises. So, they have to be clubbed together. Otherwise, financial loss will be caused to the KSEB. So, treating the two connections as a single unit, a revised bill has to be issued from February 1997 to June 2006, it was stated in Ext.P4. In the light of Ext.P4, Ext.P5 bill has been issued, demanding an amount of Rs.60,857/-. This Writ Petition is filed, challenging Exts.P4 and P5. Pursuant to the interim order of this Court, the petitioner has already deposited Rs.25,000/- towards the disputed bill.

2. The KSEB has filed a statement in which it is submitted that the existence of two connections in the very same premises for the very same purpose has caused loss to the KSEB from 01.02.1997 and therefore, the arrear bill has been issued to collect the amount lost by the Board.

3. I heard the learned counsel on both sides. The petitioner would point out that it is not at fault for the grant of two connections. Further, the claim made is barred by limitation. The learned Standing Counsel on the other hand would submit that substantial portion of the arrears relates to the period before the

introduction of the Electricity Act 2003 and therefore, the bar of limitation will not apply. After the commencement of the Electricity Act, the Board is entitled to collect at least two years arrears from the due date, it is submitted.

4. Having regard to the facts of the case, I feel that the petitioner cannot be penalised for the lapses of the KSEB. Further, at the time of grant of the connection, no prejudice was caused to the KSEB also by the existence of two connections. Only with the revision of tariff with effect from 01.02.197, loss was caused. It was the duty of the Electricity Board to ask the petitioner to integrate the two connections or to issue bills, clubbing the said two connections together. The Electricity Board having not done that, the petitioner cannot be penalised for that. But, having regard to the fact that the Electricity Board is a public sector undertaking, owing to the lapses of its officials, it may not be proper to direct the Board to suffer the entire loss. So, it is ordered that the Electricity Board will be entitled to collect arrears from July 2004 to July 2006. The second respondent is directed to revise Ext.P5 in the light of the above direction and issue a fresh bill. The amount paid by the petitioner pursuant to the interim order of this Court shall be adjusted towards the bill amount. If there is any excess amount paid by it, the same shall be adjusted towards future bills.

The Writ Petition is disposed of as above.

23.02.2007

K.BALAKRISHNAN NAIR, JUDGE

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